

183
ADMISSION OF OREGON.

19
SPEECHES

OF

HON. CLARK B. COCHRANE, OF NEW YORK,

AND

HON. BENJAMIN STANTON, OF OHIO.

Delivered in the House of Representatives, February 11 and 12, 1859.

WASHINGTON, D. C.
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ADMISSION OF COLOR

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HON. BENJAMIN FRANKLIN

THE UNIVERSITY OF PENNSYLVANIA

WASHINGTON, D. C.
1877

S P E E C H E S .

FRIDAY, FEBRUARY 11, 1859.

MR. CLARK B. COCHRANE. I am opposed to the admission of Oregon into the Union as a State at the present time and under the Constitution presented, and desire to assign very briefly my reasons for the vote I propose to give.

My opposition to the measure rests upon three principal grounds :

1. Her admission would be a palpable infraction of the rule established by this very Congress in the case of Kansas; an unjust and most undeserved discrimination in favor of Oregon, and a plain and dangerous violation of the equality of the Territories.

The English bill, which stands to-day as a legal barrier against Kansas, and is claimed by the Federal Executive in his message as an absolute prohibition upon the right of the people of that Territory to make application for admission into the Union, provides that, "when-
'ever, and not before, it is ascertained by a
'census, duly and legally taken, that the popu-
'lation of said Territory equals or exceeds the
'ratio of representation required for a member
'of the House of Representatives of the Con-
'gress of the United States," she may then proceed, in the mode prescribed, to form a Constitution preparatory for admission into the Union as a State. Under the existing ratio of representation, the population requisite for one member of the House of Representatives is at least ninety-three thousand four hundred and twenty. The population of Oregon cannot be much more than one-half of the required number, and several thousand less than the population of Kansas.

What has Oregon done, to entitle her to superior rights or consideration? What peculiar reasons are there, I demand to know, why a Territory on the Pacific coast should be admitted to special grace and favor, to the exclusion of her sister Territories on this side of the Rocky Mountains? Does this House pro-

pose to violate its own rule? to inaugurate the example of applying different rules to different Territories? and thus, by way of rewards and punishments, aim to control and conform the institutions, policies, and politics, of incipient States, to the powers that be? I shall vote for no such discrimination; to the last degree unequal, invidious, and unjust. There is but one way of safety—equality, even-handed justice.

2. My second ground of objection is, that the admission of Oregon would be unjust to the States already in the Union, and especially towards the larger and older States.

As to this point, the argument contained in the annual message of the President is clear and conclusive. This ought to be received as good authority by the other side of the House, and I commend it to the favorable consideration of the friends of the Administration on this floor.

The extract which I propose to read stands out in that document as about the only green spot in the "wide waste" of Executive expansion and folly; and I gratefully repose upon it. Here it is. The President says :

"The Federal Government has ever been a
'liberal parent to the Territories, and a gen-
'erous contributor to the useful enterprises of
'the early settlers. It has paid the expenses
'of their Governments and Legislative As-
'semblies out of the common Treasury, and
'thus relieved them from a heavy charge.
'Under these circumstances, nothing can be
'better calculated to retard their material pro-
'gress than to divert them from their useful
'employments, by prematurely exciting angry
'political contests among themselves, for the
'benefit of aspiring leaders. It is surely no
'hardship for embryo Governors, Senators, and
'members of Congress, to wait until the num-
'ber of inhabitants shall equal those of a
'single Congressional district. They surely
'ought not to be permitted to rush into the
'Union with a population less than one-half of

' several of the large counties in the interior of
' some of the States. This was the condition
' of Kansas when it made application to be ad-
' mitted under the Topeka Constitution. Be-
' sides, it requires some time to render the mass
' of a population collected in a new Territory
' at all homogeneous, and to unite them on
' anything like a fixed policy. Establish the
' rule, and all will look forward to it, and gov-
' ern themselves accordingly.

— ' But justice to the people of the several
' States requires that this rule should be estab-
' lished by Congress. Each State is entitled
' to two Senators, and at least one Representa-
' tive in Congress. Should the people of the
' States fail to elect a Vice President, the power
' devolves upon the Senate to select this officer
' from the two highest candidates on the list.
' In case of the death of the President, the Vice
' President, thus elected by the Senate, becomes
' President of the United States. On all ques-
' tions of legislation, the Senators from the
' smallest States of the Union have an equal
' vote with those from the largest. The same
' may be said in regard to the ratification of
' treaties and Executive appointments. All
' this has worked admirably in practice, whilst
' it conforms in principle with the character of
' a Government instituted by sovereign States.
' I presume no American citizen would desire
' the slightest change in the arrangement. Still,
' is it not unjust and unequal to the existing
' States to invest some forty or fifty thousand
' people collected in a Territory with the attri-
' butes of sovereignty, and place them on an
' equal footing with Virginia and New York in
' the Senate of the United States ? "

The population of the district which I have the honor to represent on this floor, very considerably exceeds a hundred thousand.

If Oregon is received into the Union upon her present application, she will immediately become equal in representation with my district in this branch of Congress, and, in the Senate of the United States, equal to the whole State of New York, with a population of more than three millions and a half.

Before she can justly aspire to a position of such power and consideration in the General Government, would there be any injustice in requiring her to show us affirmatively—not by giving us the amount at which she may have appraised her property, or the result of her uncertain and unsafe speculations on the laws of increase and diminution ; but, in the language of the " English act," " by a *census duly and legally taken*," that she has at least sufficient population to entitle her to one member of the House of Representatives, under the existing ratio of representation ?

The rule established by the English bill, if made applicable to all the Territories of the Union, present and prospective, would be eminently fair and just. More than this, sir : it would be, in my judgment, a measure of pro-

priety and repose. Under the practical workings of such a rule, if made general, and equally and persistently administered, as the permanent policy of the country, the growth of the Territories would be healthy, steady, and peaceful. There has been no time, since I have been a member of this House, that I would not have voted for such a rule, if made of universal application. I am prepared to vote for such a rule to-day and now.

We did not, on this side of the House, as my friend from Ohio [Mr. NICHOLS] seems to suppose, object to the rule of population in the English bill, because the rule in itself was unjust or unfair, but because it was applied for the first time to the Territory of Kansas, and made, by the mode of its use, an odious and offensive discrimination against a free State : because it stood in the English bill as a threat to compel the people of that Territory to embrace a Constitution which, in their heart of hearts, they profoundly abhorred. That they thus abhorred it, we then knew and declared. And the event has more than proved the truth of the words we uttered in their name, and more than justified our confidence in the incorruptible integrity, and love of Freedom of that noble and lion-hearted people. It was for these reasons we arraigned and condemned it, let me say to the gentlemen from Ohio and from Massachusetts.

The only decent pretence which could be urged in justification for its introduction into the English bill by the friends of that measure was, that the requirement in itself was sound and safe ; and I regret, sir, to see that the rule then established, having performed its office, or, rather, having failed to perform its office, is now to be abandoned in the house of its friends, and by those who had the honor of its paternity.

If the rule was good for Kansas, it is safe for Oregon ; and I do not propose, for myself, however others may feel constrained to act, to sanction, by my vote, any such discrimination and inequality as this measure contemplates.

3. The reason for my third objection—and with me the objection is an insuperable one—are found in the Constitution with which Oregon presents herself for admission into the Union. The objectionable clause stands out upon the instrument, a separate and compact paragraph of refined inhumanity of the most studied and extraordinary character. I venture to affirm, that in point of needless and gratuitous barbarity, it is without a parallel in the whole history of civilized States ; and is, in my judgment, a plain infraction of the letter and spirit of the Federal Constitution.

The gentleman from Indiana will not succeed, I apprehend, in averting the public attention in any portion of the Confederacy from the intrinsic atrocity of this provision, by raising the stale cry of " negro equality." It is not a question of negro equality or inferiority at all, but one of common and ordinary humanity.

And let me say here, to some of my friends on this side of the House, that after you have given, by your votes, effect and vitality to this provision of the Constitution, let us hear no more of the wrongs Slavery. It is infinitely better for any man, whether white or black, to be a slave, than an outlaw and an outcast, pursued, hunted, and homeless, without country, security, or friends; excluded from the courts, driven from the soil, and cast, a mere worthless waif, out upon the ocean of life, exposed to every storm and smitten by every wave. If I were compelled still to exist, and forced to choose between the alternatives, I would say, give me chains and a shelter. Here is the provision; hear it, and see whether there be any question of negro equality in it:

"No free negro or mulatto, not residing in this State at the time of the adoption of this Constitution, shall ever *COME, reside, or be,* within this State, or hold any real estate, or *make any contract,* or MAINTAIN ANY SUIT *therein.* And the Legislative Assembly shall provide by *penal* law for the removal by public officers of all such free negroes and mulattoes, and for their effectual exclusion from the State, and for the *punishment* of persons who shall bring them into the State, or employ or harbor them therein."

Now, sir, we are appealed to, even on this side of the House, to give life and practical effect to this cold-blooded inhumanity, as unnecessary as it is wicked. If Oregon simply desired to provide against "negro equality," was there no way except by legislating against these free colored men, as she would legislate against beasts of prey? Are there no middle, no intermediate grounds between allowing men all the rights and privileges of American citizenship, and stripping them of every conceivable right, and declaring that they shall not be permitted to live in the Commonwealth, or even to take shelter therein, though driven within her limits by disaster or misfortune? This example needs but to be universally followed, and you have driven this portion of your race from the face of God's earth—banished and branded as having been born into the world as so many trespassers; and this by a system of legislation commenced and inaugurated by the model Republic in the declining half of the nineteenth century—a Republic which its founders declared should forever stand as an asylum for the outcasts and oppressed of all lands.

I concede that the provisions and policy of a Constitution under which a new State seeks admission into the Union, provided always these conform to the letter and spirit of the Federal Constitution, ought to be exempted, as a general rule, from Congressional criticism. But this provision in the Oregon Constitution is, in my judgment, in violation of both the letter and spirit of the Constitution, and is especially re-

pugnant to section two, article four, which provides that—

"The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."

Under this provision of the Federal Constitution, a citizen of the State of Oregon would be entitled to maintain a suit in the courts of New York, at any and at all times, for the purpose of enforcing a right or redressing a wrong; but a citizen of New York, if he happens to have any African blood in his veins, is excluded from the courts of Oregon by her organic law. I cannot vote for the admission of a State into this Union whose Constitution closes the temples of justice and barricades the doors of the courts of the people against freemen, no matter of what clime, color, or condition. The gentlemen from Massachusetts can, if they choose, vote for a Constitution (and thus give life and vigor to it) which admits aliens to citizenship, and excludes a class of the citizens of Massachusetts from the courts; but I can do no such thing.

This section of the Oregon Constitution "out-Herods Herod." It leaves the decision in the Dred Scott case a great distance behind. Excluding the *dicta*, and that decision simply holds that a negro is not a citizen of the United States, and cannot therefore sue in the *Federal* courts. But this section provides that free men, and citizens, in several of the States, shall have no standing in a *State* court.

Now, sir, as I understand it, there is not a slave State in this Union that denies the free colored man access to her courts. The ways to their courts of justice are highways, along which all free men may press their steps in search of justice and equity.

The "black laws," as they have been called, existing upon the statute books of some of the Northern States—though, I am glad to believe, in most instances but a dead letter—are a lasting and burning reproach to the free States, and ought to be removed; but none of these have gone the length of excluding this class of persons from the courts of justice.

What adds to the enormity of these enactments is, that they are so wholly gratuitous and unnecessary. In a slave State, where the presence of this class of persons might be regarded as of dangerous example, I could understand the motives of such legislation, however much I might condemn the necessity, or deplore the act. But a free State is utterly without excuse, and is justly exposed to the charge of needless and wanton cruelty. And I trust that those gentlemen who propose to encourage, by their votes, this species of legislation, will hereafter repress their feelings of holy disapproval, when a slave State proposes to reduce to a state of slavery free negroes within its territorial limits. It is time that this species of legislation should be rebuked.

SATURDAY, FEBRUARY 12, 1859.

Mr. STANTON. Mr. Speaker, I suppose there is no man, in the House or in the country, who does not know that the admission of Oregon as a State into the Union is purely a question of time—that it must come, and at no very distant day. There is therefore no question about denying to the people of Oregon any rights that they are entitled to under this Constitution. It is a question as to whether Oregon shall be admitted to-day or to-morrow, on such terms as have been imposed on other Territories, or on more favorable terms. My colleague who spoke this morning [Mr. VALLANDIGHAM] has found something to be thankful for, and I am glad of it. So far as I am concerned, he is entirely welcome to all that he can make out of that in Ohio.

Now, Mr. Speaker, I desire to call the attention of gentlemen, on the other side of the House especially, to the action of Congress in relation to the admission of Kansas. It was decided, by the almost united vote of the Democratic party, that that State could not be admitted with a Constitution of her own making, without having the ratio of representation ascertained by a census "duly and legally taken." That is recognised and spread on the records of the country as a part of the doctrines and principles of the Democratic party of the country. There is no escape from it. Now, if my colleague supposes that in this state of facts, with the whole record of the Democratic party in this and the other branch of Congress against the admission of Kansas as a free State, as proposed by the Crittenden-Montgomery amendment, he can make any capital on account of Republican votes against the admission of Oregon, he is welcome to all that he can make.

Mr. Speaker, I will not stultify myself by professing to ignore what I know to be the operating causes which control the votes of members on this floor, in voting for and against the admission of Oregon. Sir, if Kansas had been admitted under the Crittenden-Montgomery bill, gentlemen on the other side very well know she would have sent to the other wing of the Capitol two Senators who would have votes during the next Presidential term, and that these two votes would have been Republican votes. The namesake of the Delegate from Oregon might possibly have been one of them. When that state of things was presented to the consideration of gentlemen on the other side, they demanded that Kansas should have the full ratio of representation, to be ascertained by a "census" duly and legally taken." Now, all that I ask is, that when they come here with a State which professes to be free, with Democratic Senators, who are to serve during the next Presidential term, that they shall have meted out to them precisely the same rule which they meted out to Kansas. I am not prepared here, nor will I sit by and aid in adopting one

rule for the admission of a Republican State, and another rule for the admission of a Democratic State. That, aside from the Constitution of Oregon, is the true secret of the position of parties in this House on this question.

Now, Mr. Speaker, gentlemen on the other side, and certainly a large majority of those who voted against the Crittenden-Montgomery amendment, propose now, without any change in the condition of the Territories, to adopt for Oregon a rule different from that which they adopted for Kansas; and while gentlemen on the other side have no difficulty in walking up to the mark, I am sorry to see that many on this side are shaking in their boots, lest it should be charged that Republican votes were cast against the admission of a free State. I have no difficulty in adopting, in this case, the same rule of justice which they proposed to apply to us.

But, Mr. Speaker, aside from that, if the Constitution were unobjectionable, and the population sufficient to entitle the State of Oregon to demand admission, this would be no consideration that should induce a statesman, acting on his responsibility, to refuse admission. I grant you that.

It is said that Oregon proposes to come in as a free State. Mr. Speaker, will any gentleman on the other side of the House tell me, will the chairman of the Territorial Committee tell me and tell the House, in his closing argument, how a negro, held in slavery in Oregon, is to establish his freedom? If a white man shall take into the Territory of Oregon, or have there, a black man, and exercise control over him and his industry, and make him a slave through the mere law of force, how is the slave to help himself? Can he go into the courts and ask a writ of *habeas corpus*? No, sir; for this Constitution says he can maintain no suit in court. Can he bring an action for trespass or for the recovery of the proceeds of his labor? No, sir; for he can have no suit in court. Can he bring an action to try the question of his freedom, or the right of the claimant to his service? No, sir; for he can bring no suit. And yet you call this a free State, though you prescribe, in the Constitution, that a man shall not bring the question of his freedom in the only court that has jurisdiction of the question.

That is not all. You are admitting a State into the Union which is to have foreign commerce; which is to trade with all the world—with the West India islands; with Brazil; which is to import the productions of tropical climates—coffee, sugar, cotton; and a large part of such trade is in the hands of negroes and mulattoes. In Hayti, in Jamaica, and elsewhere all over the world, are importing merchants, blacks and mulattoes, who are sending their goods to Oregon; and if they sell upon credit there, they cannot bring a suit in the Oregon courts to recover the value of their cargo. Here, then, sir, is your Oregon Constitution—a free-State Constitution—which closes the Oregon courts to

them. He cannot go into the Federal courts, because the Dred Scott decision closes them to him. I pray you, in what sort of condition will we be in respect to your foreign relations—

Mr. SEWARD. He may sue by his next friend.

Mr. GROW. Suppose he has no next friend.

Mr. STANTON. That will not answer. The Oregon Constitution says that class of persons shall not sue; and I take it that that reaches the parties in interest in the case, as well as the nominal plaintiff upon the record. It is not only a prohibition against the black man and mulatto to sue in his own name, but against his substantially maintaining his rights and interests in the courts of Oregon. I undertake to say that, in the Constitution of no State of the Union, is there so barbarous a provision. No other State in this Confederacy, no civilized and Christian country upon God's footstool, ever before outlawed a whole nation of people, and declared that they should not have access to their courts to secure their rights, but that they were castaways upon nature's commons.

The remark of the gentleman from Georgia [Mr. SEWARD] brings to my mind the remarks of the gentleman from Indiana, [Mr. HUGHES], day before yesterday, in which he assigned to the Republican party the condition of contending for negro equality. I do not apprehend that, upon the question of political and social equality of negroes, there is any Republican doctrine; nor do I understand that there is any Democratic doctrine upon that subject. I understand that there is a great variety of sentiment in various localities, as to the political and civil rights which shall be extended to that class of population. Now, sir, there never has been, from any of the exponents of the principles of the Republican party, any allegation that it claimed equality in the exercise of political rights by the black population in any State of this Confederacy. The Republican platform, as my senior colleague [Mr. GIDDINGS] says, does not touch the question at all; and it is a question about which Republicans and Democrats have leave to differ. I am willing myself to admit that free negroes and mulattoes are an undesirable population; that they are a degraded social caste in all the States of this Confederacy. I interpose no objection to a State for the discouragement of the immigration of negroes and mulattoes into the State. I would not extend to them equal political privileges and political rights; because thereby it might tend to encourage negroes to come into the State. So far as the Constitution of Oregon comes, then, merely as a discouragement to that class to come into that State, I make no objection; because that is a subject for them to decide, and which I do not propose to interfere with. But, when they undertake to outrage the first principles of civil liberty and of constitutional government, and to out-

law a race of people and make them the subjects of cruelty of every description, it presents altogether a different question.

There are one or two features in this Constitution which have not yet been adverted to. The thirty-seventh section of the bill of rights is an extraordinary one. It provides that—

“The Legislative Assembly shall have power ‘to restrain and regulate the immigration to ‘this State of persons not qualified to become ‘citizens of the United States.’”

I do not know of any such persons. Here is an attempt, by indirection, to induce this Congress, and especially the Republican members of it, to endorse the principles of the Dred Scott decision, which announces that blacks and mulattoes born in this country are incapable of becoming citizens of the United States. It is all idle for the gentleman from Massachusetts [Mr. THAYER] to tell me that he is not sworn to see that the people of Oregon should observe the Constitution of the United States; because, as has been well said, this Constitution is mere waste paper, and our votes will breathe into it the breath of life. By my vote, I am asked to give vitality to the principle of the Dred Scott decision, which declares that there is a class of persons in the country who are incapable of becoming citizens of the United States. I would do no such thing, even if she had two of the best Republican Senators in the world.

But that is not all. The Federal Constitution, as I understand that instrument, has itself taken cognizance of the immigration, or importation, or whatever you may call it, of the description of persons who are unquestionably alluded to in this clause of the bill of rights of the Constitution of Oregon. Congress is empowered to prohibit their immigration, and it has done so under the penalty of death. And here is a power conferred upon the Legislative Assembly of Oregon, to nullify and disregard that provision of the Federal Constitution, and that act of Congress which prohibits their importation, and authorizes that Legislative Assembly to regulate it. What does it mean? It means to authorize the importation of coolies, and that description of laborers which will practically make Oregon a slave State, while this Constitution professes that it is a free State. It proposes to do that in violation of the Constitution of the United States; and it proposes to do it in defiance of the profession held out upon its face, that there shall be no involuntary servitude there.

For these reasons, and for numerous other reasons which I could enumerate, I cannot vote for the admission of Oregon under this Constitution; and I pray you, now, what hardship or harm is to be done? Here is a Constitution manifestly repugnant to the moral sense of a great majority of this House. It outrages your common sense, Mr. Speaker, to say that negroes shall have no redress for wrongs inflicted upon them. If Oregon is rejected to-day, and re-

quired to reform her Constitution, and make it republican in form and shape, she will be entitled to admission when she makes it "republican in form," and in conformity with the Constitution of the United States, and has a sufficient population.

But, sir, I admit that that is not an essential consideration with me. A question of population would not operate on my mind against the admission of a State, if the same rule is to be applied alike to all other States. But when I see, Mr. Speaker, that your side of the House has rejected a Republican State, and upon the express ground that she shall not be a State until her population is ascertained by a regular census to entitle her to one Representative upon this floor, then I will go for applying the same rule to the State of Oregon, at the risk of whatever consequence; and my colleague can make the most of it.

It is idle, sir, to ignore in this controversy that there is a struggle going on between the two sections of the Confederacy in reference to the propagation of slave or free labor. It is no matter for the time being whether a State Constitution may nominally be free or otherwise. If it brings into the Federal councils, for the next Presidential election, and for the next six years, votes that will aid in the propagation of Slavery, that is the controlling influence, and the influence which now operates for the procurement of the admission of Oregon into the

Union. Whatever she may profess as to having a free Constitution and being a free State, you, sir, know, as well as I do, how these Senators will vote on all questions affecting the peculiar institution. They will not differ from you, Mr. Speaker, unless you are more conservative than they are. They will go as far as you dare go. A State occupying this position always does, and, I take it, always will.

Gentlemen will probably avail themselves of the votes of Oregon for the next six years to come. They will avail themselves of them in the next Presidential election. They may possibly avail themselves of the vote in this House, in the election of a President; and have an equal vote cast, by the Representative of that State, with that cast by myself and my twenty colleagues from Ohio. This may all be so; but, sir, it will not stay the onward march of events. Oregon, like all other free States, must bow to that manifest destiny which proclaims, if this controversy be kept up, that she must be upon the side of Freedom. It may not come to-day, and it may not come to-morrow; but it will ultimately come. If gentlemen at present avail themselves of the three electoral votes of Oregon, the time will come when she will have ten, and more, and then they will be upon the other side. You may retard the progress of events, but you cannot prevent the ultimate ascendancy of Freedom and Free Labor in this Confederacy.